



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/655,743 09/06/00 HOWE

A MPH 99-46

EXAMINER

QM12/0619

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ART UNIT

PAPER NUMBER

3711

DATE MAILED:

06/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/655,743

Applicant(s)
Alice H. Howe

Examiner
Raleigh W. Chiu

Art Unit
3711



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 20) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The submission of the references not considered fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The submission of only the cover page of a patent is not considered to be a legible copy of the patent. Those references have been placed in the application file, but the information referred to therein has not been considered. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 4,834,393 (Feldi) or French Patent Number 2,594,037 (Musslin) and either in view of U.S. Patent Number 5,077,870 (Melbye et al., hereinafter Melbye) and applicant's admission of prior art in the specification.

Regarding claim 1-7, 9, 10 and 12, Figure 1 of Feldi discloses a tennis racquet 1 with a ball retrieving attachment 2 attached to the racquet shoulder. Feldi further discloses the ball retrieving attachment to be made from a hook-and-loop fastening system, specifically Velcro™.

Figures 1-3 of Musslin also show a ball retrieving attachment attached to the shoulder of a tennis racquet where the retrieving attachment appears also to be made from a hook-and-loop fastener.

Combining the fact that the Feldi abstract discloses that any hook-and-loop fastener system could be used in combination with his racquet or that Musslin discloses the broad recitation of a hook-and-loop fastener, with the fact that Melbye at column 1, lines 15-23 discloses that Velcro™ and Scotchmate™ products are functional equivalents as hook-and-loop fasteners, and the fact that applicant admits in the specification that the

materials with the physical characteristics set forth in the claims are old and well-known Scotchmate™ products, the selection of any of these known materials to form the hook-and-loop fastener of either Feldi or Musslin would be within the level of ordinary skill in the art.

4. Claims 8, 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldi, Musslin, Melbye and applicant's admission of prior art in his specification as applied above in view of U.S. Patent Number 4,993,712 (Urwin).

Regarding claims 8, 11 and 13-15, it would have been obvious to one of ordinary skill in the art to place the ball retrieving attachment between the three and nine o'clock positions of the Feldi racquet shoulder as modified above in view of Urwin who teaches at column 4, lines 8-13 that a ball retrieving attachment comprised of hook-and-loop fasteners can be placed anywhere along the outer surface of the racquet frame.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

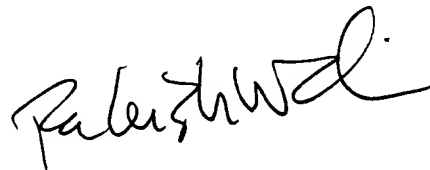
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (703) 308-2247.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579.

Serial Number: 09/655,743
Art Unit: 3711

Paper No. 3
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif
14 June 2001